

Issued December 17, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 659, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VANILLA FLAVORING POWDER.

On or about December 13, 1909, the Semrad Chemical Company, a corporation of Chicago, Ill., sold and delivered to Habicht, Braun & Co. at said city of Chicago, a quantity of a food product labeled "Hy-Grade Vanille-Ton," "A pure vanilla and tonka bean powder especially adapted for bakers. Absolutely Pure. Absolutely free from alcohol. Absolutely free from all other flavoring matters. In full compliance with all pure food laws. Habicht, Braun & Company, Chicago, New York."

At the time of such sale and delivery, the said Semrad Chemical Company delivered to said Habicht Braun & Co. a guaranty in writing, reading as follows:

FOOD GUARANTY.

The undersigned Semrad Chemical Company, of Chicago, State of Illinois, United States of America, does hereby warrant and guarantee unto Habicht, Braun & Company, having offices in Chicago, Illinois, and New York, N. Y., that any and all articles of food or drugs as defined by the Act of Congress approved June 30, 1906, entitled "An Act for preventing the manufacture or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," which the undersigned has sold since October 1st, 1906, or shall at any time hereafter prepare, manufacture for, sell, or deliver to said Habicht Braun & Company, will comply with all the provisions of said act of Congress, and are not and shall not be in any manner adulterated or misbranded within the meaning of said act. It is expressly understood that this shall be a continuing guaranty until notice of revocation be given in writing and notice of acceptance of the guaranty is hereby waived.

Dated at Chicago, the second day of January, 1907.

SEMRAD CHEMICAL COMPANY,
AUGUST SEMRAD, *Pres.*

(Semrad Chemical Co., Corporate Seal, 1898).

Thereafter, on or about December 15, 1909, the said Habicht, Braun & Co. shipped from the State of Illinois to the State of Texas one of the packages of the above-mentioned article of food, embraced

in the delivery to said company by the Semrad Chemical Company on December 13, 1909, hereinbefore mentioned, wherefore and whereby said Semrad Chemical Company, manufacturer, as aforesaid, by reason of the sale of the article aforesaid and the guaranty aforesaid, became amenable to any prosecution, fines and penalties which might, but for the guaranty aforesaid, attach in due course to said Habicht, Braun & Co. by reason of said shipment. Samples from this shipment were procured and analyzed by the Bureau of Chemistry, United States Department of Agriculture. As the findings of the analyst and report made thereon indicated that the product was adulterated and misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the said Semrad Chemical Company, Habicht, Braun & Co., and the party from whom the samples were procured were afforded opportunities for hearing. As it appeared after hearings held that the said shipment was made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General, with a statement of the evidence upon which to base a prosecution.

In due course a criminal information was filed in the District Court of the United States for the Northern District of Illinois against the said Semrad Chemical Company, charging the above guaranty and shipment, and alleging that the product so guaranteed and shipped was adulterated in that a certain substance, to wit, artificial vanillin, had been substituted wholly or in part for vanilla and tonka bean powder; in that said vanillin had been mixed and packed with the product in a manner whereby its inferiority was concealed, and alleging that the product was misbranded in that it was an imitation of another article, to wit, pure vanilla and tonka bean powder; in that the package containing the article bore a statement regarding the ingredients and substances contained therein, which said statement was false and misleading because it purported to represent that the said article of food was absolutely pure high-grade vanilla and tonka bean powder, whereas in truth and in fact said article of food contained vanillin, and a statement of such fact did not appear on the said label.

On September 20, 1910, the defendant entered a plea of guilty to the above information and on September 23, 1910, the court, after hearing held, imposed a fine of \$100 and costs.

This notice is given pursuant to section 4 of the Food and Drugs Act of June 30, 1906.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., November 1, 1910.